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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/779,974	02/09/2001	Tony Joe Brice	7099.1269	8166

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EXAMINER

POND, ROBERT M

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 11/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

09/779,974

Applicant(s)

BRICE ET AL.

Examiner

Robert M. Pond

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 May 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 and 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "108" in Figure 1 has been used to designate both "category state" and "provider." A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities:
 - Please see at least page 9, line 7: consumer "102" is labeled "202" in Figure 2,
 - Please see at least page 12, line 8: package request processor "106" is labeled "206" in Figure 2,
 - Please see at least page 12, line 10: reference character "304" depicted in Figure 3 is missing,
 - Please see at least page 13, lines 11-12: reference character "506" depicted in Figure 5 is missing.Appropriate correction is required.

3. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Objections

4. Claim 5 is objected to because of the following informalities: typographical error on line 2, "provides" was interpreted as "providers" for examination purposes. Appropriate correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requires of this title.

5. **Claims 1-13 are rejected under 35 USC 101 because the claimed invention is directed to non-statutory subject matter.**

The claims are directed to a process that does nothing more than manipulate an abstract idea. Mere recitation in the preamble (i.e., intended use) or mere implication of employing a machine or article of manufacture to perform some or all of the recited steps does not confer statutory subject matter to an otherwise abstract idea. There is no practical application in the technological arts. For subject matter to be statutory, the claimed process must be limited to a practical application of the abstract idea or mathematical algorithm in the technological

arts. See *In re Alappat* 33 F.3d at 1543, 31 USPQ2d at 1556-57 (quoting *Diamond V. Diehr*, 450 U.S. at 192, 209 USPQ at 10). A claim is limited to a practical application when the method, as claimed, produces a concrete, tangible and useful result: i.e. the method recites a step or act of producing something that is concrete, tangible and useful. See *AT&T v. Excel Communications Inc.*, 172 F.3d at 1358, 50 USPQ2d at 1452.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-4 and 6-7 are rejected under 35 USC 102(e) as being anticipated by Andrews (patent number 6,285,986).

Andrews teaches all the limitations of Claims 1-4 and 6-7. For example, Andrews discloses a system and method of bundling products and services from one or more providers at a bundle server in communication over a network with vendors of products and services, the bundle server providing information on the bundled package of items (e.g. bundle profile), and receiving a request to

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purchase a bundle package from a participating member (please see at least abstract; Fig. 1 (10, 24, 26-32, 34-40); col. 2, line 59 through col. 4, line 44). Andrews discloses vendors posting items available for bundling with other vendors via the bundle server (see at least col. 5, lines 25-30), shipping the purchased bundle package to the member (please note this examiner interprets vendor actions of shipping product to a member as providing confirmation of the purchase) (see at least col. 5, lines 34-37), and all parties receiving compensation (see at least col. 12, lines 32-34).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 7. Claim 5 is rejected under 35 USC 103(a) as being unpatentable over Andrews (patent number 6,285,986), in view Official Notice (regarding commission structure).**

Andrews teaches all the above as noted under the 102(e) rejection and further teaches selling agents using the system to sell bundle packages (see at least col. 13, lines 16-22) and all parties involved in selling a bundle package being compensated, but does not specifically disclose a commission structure.

This examiner takes the position that it is old and well-known that sellers of goods and services are compensated by being paid a commission based upon old and well-known commission structures (e.g. a percentage of gross sales, a percentage of net sales (sales price minus costs), or combination). Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the system and method of Andrews to disclose a commission structure as taught by Official Notice, in order to more fully inform potential providers how they will be compensated, and thereby attract providers to the bundled package service.

8. Claims 8-13 are rejected under 35 USC 103(a) as being unpatentable over Andrews (patent number 6,285,986), in view of Walker et al. (Paper #5, IDS, patent number 6,138,105).

Andrews teaches all the above as noted under the 102(e) rejection and further teaches the bundle server prompting the vendor for item suggested retail price and the item price if included in a bundled package, or minimum auction price if included in an auctioned bundle (see at least col. 8, lines 13-21), but do not disclose specifics on bundle pricing schemes. Walker et al. teach bundled packaging of goods and services and pricing of bundled packages. Walker et al. further teach:

- bundling French fries (X: examiner's notation for regular retail price of French fries) and soda (Y: examiner's notation for regular retail price of

- soda) at a single price that is less than the sum of the prices of the individual products (bundled single price $< (X+Y)$) (see col. 1, lines 33-37),
- bundling of product X (product ID 1) with product Y (product ID 2) where at least the bundled price of X is 10% less than retail price of X by a predetermined percentage (see at least Fig. 5 (506); col. 6, lines 35-62).

Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the system and method of Andrews to disclose a bundled pricing method as taught by Walker et al., in order to provide a pricing incentive to the consumer, and thereby increase sales.

Andrews teaches all the above as noted under the 102(e) rejection and further teaches each vendor providing a suggested retail price and establishing an item price if included in a bundled package, but do not specifically disclose the item being less than the item suggested retail price. Walker et al. teach all the above as noted under the 103(a) rejection and teach setting an item price included in a bundle lower than the retail price of the item by a predetermined percentage to create a purchasing incentive (see at least Fig. 5 (506); col. 6, lines 35-62). Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to modify the system and method of Andrews to use a predetermined percentage to compute a lower item price as taught by Walker et al., in order to provide a pricing incentive to the consumer, and thereby increase sales.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- www.experia.msn.com; Internet Archive Wayback Machine, www.archive.org; 27 April 1999, 08 May 1999; teaches vacation package deals and special deals created by bundling services and products.
- Business Wire, "Affinity International Travel Systems to Acquire Top Rated Online Travel Agency, Design-A-Tour of Atlanta," 19 January 1999, Dialog file 20 #04053335; teaches bundling complete travel packages via online Internet service for consumers and agents.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mr. Robert M. Pond** whose telephone number is 703-605-4253. The examiner can normally be reached Monday-Friday, 8:30AM-5:30PM Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Ms. Wynn Coggins** can be reached on 703-308-1344.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **703-308-1113**.

Any response to this action should be mailed to:

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Commissioner of Patents and Trademarks

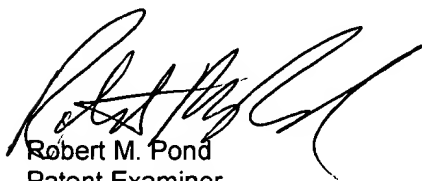
Washington D.C. 20231

or faxed to:

703-872-9306 (Official communications; including After Final

communications labeled "Box AF")

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal
Drive, Arlington, VA, 7th floor receptionist.



Robert M. Pond
Patent Examiner
October 22, 2003